

**SCOTTISH BORDERS COUNCIL**

**APPLICATION TO BE DETERMINED UNDER POWERS DELEGATED TO  
CHIEF PLANNING OFFICER**

**PART III REPORT (INCORPORATING REPORT OF HANDLING)**

**REF :** 22/00342/FUL

**APPLICANT :** Mr Phil Davies

**AGENT :** Paterson Architects

**DEVELOPMENT :** Demolition of former industrial shed, erection of Class 4 unit and four dwellinghouses

**LOCATION:** Workshop Hunters Yard  
Station Road  
Gordon  
Scottish Borders  
TD3 6LR

**TYPE :** FUL Application

**REASON FOR DELAY:**

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**DRAWING NUMBERS:**

<b>Plan Ref</b>	<b>Plan Type</b>	<b>Plan Status</b>
PL_01	Location Plan	Approved
PL_03	Proposed Plans	Approved
PL_04	Proposed Plans	Approved
PL_05 A	Proposed Roof Plan	Approved
PL_06	Proposed Plans, Sections & Elevations	Approved
PL_07	Proposed Plans, Sections & Elevations	Approved
PL_08	Proposed Plans, Sections & Elevations	Approved

**NUMBER OF REPRESENTATIONS: 3**

**SUMMARY OF REPRESENTATIONS:**

A total of three objections have been received by the Planning Authority. All issues raised have been considered as part of the assessment of the application. The key material planning considerations have been summarised below:

- o The layout of the proposed development;
- o The scale and height of the proposed buildings;
- o Potential contamination associated with asbestos removal;
- o Insufficient foul drainage capacity to support the proposed development;
- o Impact upon amenity and privacy;
- o Access to the application site from the public road and road safety;
- o Impact on protected species, specifically bats;
- o Developer contributions.

**Consultations**

Archaeology Officer: No objection. An informative is recommended in case of any remains of the later 19th century buildings being found. It is unclear how much may remain of any of these buildings, but

these would be expected to be only local in their significance. The same significance would also be applied to any features, such as rubbish or cess pits, associated with such buildings, and these too would also not require any archaeological conditions.

Community Council: Concerns regarding the demolition/removal of the workshop (with asbestos roof) and applicant needs to submit method statement and risk assessment for this work.

The Community Council favourably regard the application for this long-vacant site but it was suggested any developer contribution should maybe be directed to improving and maintaining the Gordon Primary School. Gordon would welcome more business units. Since the last application, the sewage facilities in Gordon have been upgraded so no issues about over capacity is foreseen.

Contaminated Land: No objection. The application site previously operated as an industrial yard. This land use is potentially contaminative and it is the responsibility of the developer to demonstrate that the land is suitable for the use they propose.

Petroleum licensing records indicate petroleum storage occurred within the application site.

A limited factual site investigation report has been submitted to support the planning application (prepared by Green Cat Renewables Ltd, dated 24 November 2021). Trial pit logs report the presence of strong kerosene and diesel odours within the two trial pits advanced.

The Contaminated Land Officer recommends that a condition should be attached to ensure that the development does not commence until a full site investigation and risk assessment has been carried out. Any requirement arising from this assessment for a remediation strategy and verification plan should be included, as deemed necessary.

Ecology Officer: No objection. The Preliminary Bat Roost Assessment (prepared by Practecology, dated 18 April 2021) found no current or historic signs of bats using the application site. The buildings suitability to support bats is negligible.

Some birds, mainly wood pigeon and starlings are using the buildings for nesting. Therefore, compensatory bird boxes will be required as part of the development. The report does not specify the number of nests recorded in the building; considering the conservation status of wood pigeons (green) and starlings (red) the nests should be compensated at 2:1.

Economic Development: No response received at the time of writing this report.

Education and Lifelong Learning: No response received at the time of writing this report.

Roads Planning Service: No objection. The level of development is such that the access to the application may remain private and it will not be considered for adoption. They recommend that conditions and an informative are attached.

## **PLANNING CONSIDERATIONS AND POLICIES:**

Scottish Borders Local Development Plan 2016

PMD1: Sustainability

PMD2: Quality Standards

PMD5: Infill Development

HD3: Protection of Residential Amenity

EP1: International Nature Conservation Sites and Protected Species

EP2: National Nature Conservation Sites and Protected Species

EP3: Local Biodiversity

EP8: Archaeology

EP13: Trees, Woodlands and Hedgerows

IS2: Developer Contributions

IS7: Parking Provision and Standards

IS9: Waste Water Treatment Standards and Sustainable Urban Drainage

IS13: Contaminated Land

Supplementary Planning Guidance

Biodiversity 2005

Contaminated Land Inspection Strategy 2001

Development Contributions 2011 (updated 2022)

Householder Development (incorporating Privacy and Sunlight Guide) 2006

Placemaking and Design 2010

Trees and Development 2008 (updated 2020)

**Recommendation by** - Cameron Kirk (Assistant Planning Officer) on 6th February 2023

Site description

The application site relates to a former business premises and its associated yard that is now derelict. The site lies within the development boundary for the settlement of Gordon. Vehicular access is taken from Station Road to the western boundary.

The surrounding locality mainly consists of residential properties. There are dwellinghouses to the north and west boundaries of the application site. There are outbuildings to the south boundary, which relate to the dwellinghouses that lie further to the south. A mature tree belt lies to the east boundary.

The application site is identified as being an area of prime quality agricultural land.

Proposed development

It is proposed to demolish the existing building and erect four detached, two storey dwellinghouses and a two storey business unit that would have a Class 4 use. The proposed buildings would be fairly traditional in form, having gable roofs.

The proposed development would be accessed via the existing vehicular access from the public road which would be altered slightly to accommodate the business unit to the south boundary of the site. Each dwellinghouse would have a front garden that would provide parking for two vehicles. They dwellinghouses would also benefit from private rear gardens. The business unit would provide parking for one vehicle within its curtilage.

The proposed development would be connected to the public water supply network and public drainage network. Surface water would be dealt with in a sustainable manner.

Relevant planning history

15/00189/PPP Residential development. Granted 02 August 2017.

19/00427/FUL Demolition of workshop and erection of twelve dwellinghouses. Withdrawn 04 July 2019.

21/00530/PREAPP - Pre-application enquiry.

Assessment

Principle

The application site lies within the development boundary for the settlement of Gordon. In order to establish the principle of development it must be assessed against Policy PMD5. Policy PMD5 states development on non-allocated, infill and windfall sites, including the re-use of buildings within development boundaries as shown on the proposal maps will be approved where the criteria outlined in Policy PMD5 is satisfied.

The application site relates to a former business premises and its associated yard that has lay vacant for a number of years. The existing building and grounds have fallen into a state of disrepair. The proposed

development would result in four detached dwellinghouses and a business unit being constructed on the site. The immediate area is characterised predominantly by residential properties. The proposed development would not conflict with the established land use of the area. The proposal is not considered to lead to over-velopment or "town and village cramming" and would make good use of a redundant brownfield site that would positively contribute to the overall amenity of the locality.

In light of the above, it is considered that the proposed development complies with the relevant criteria outlined in Policy PMD5, subject to further policy considerations below.

#### Layout, design and materials

Policy PMD2 aims to ensure that all new development is of a high quality and respects the environment in which it is contained. While Policy ED5 requires that the development respects the scale, form, design, materials and density of its surroundings; the individual and cumulative effects of the development should not lead to over-development or town cramming; the proposal should not detract from the character and amenity of the surrounding area.

The layout and the design of the proposals were altered following advice given in the pre-application enquiry stage. The application site is large enough to accommodate four detached dwellinghouses and a business unit, which would not constitute overdevelopment of the site. The proposal would work with the existing topography of the application site and it would form a small cul-de-sac. The proposed dwellinghouses and business unit would be appropriately positioned and set away from the boundaries of neighbouring properties, where possible.

This part of Gordon is characterised by a mixture of houses styles and building types, including single and two storey houses, with a varied palette of materials. The spatial pattern of this part of the settlement is also irregular and the proposed development would not be at odds with the immediate locality.

The proposed dwellinghouses and business unit would be of an appropriate scale, character and appearance, which would site comfortably within the site and relate well to the surrounding context. The proposed buildings would be fairly traditional in form as they would have gable roofs. They would be greater in height than the existing building but this is to be expected given that they are two storeys in height. They would not appear at odds with the built form found within the locality of the application site. The proposed fenestration would be acceptable in this location. A modern palette of materials would be used for the external finish for the proposed buildings and they would relate well with the materials found to nearby properties.

Some details have also been provided for hard and soft landscaping. The landscaping scheme proposed would be acceptable in this context.

Overall, the layout, design and materials for the proposed development would be acceptable.

#### Residential amenity

Policy HD3 aims to protect neighbouring residential properties against inappropriate development that would result in the loss of amenity and privacy. The proposed buildings would be greater in height than the existing building. Concerns have been raised regarding the impact this would have on the amenity of neighbouring properties. Considering the position of the proposed buildings, relative to neighbouring properties, they would not unduly impact upon the daylight or sunlight of those properties and the proposal would not create undue overshadowing.

The proposed development would result in a degree of overlooking to neighbouring properties from the first floor windows of the proposed buildings. The proposed buildings have been positioned and orientation in such a way as to minimise the impact they would have on nearby properties. The level of overlooking would not be significant enough to justify refusal in this instance.

The business use to the proposed building on plot 5 is not expected to conflict with existing or proposed neighbouring residential properties. A condition will be attached to limit to the use to use Class 4 only. This will enable the Planning Authority to consider the implications of any subsequent change of use on the amenities of the area.

Overall, it is not considered that the proposed development would have a significant adverse impact upon the amenity or privacy of neighbouring properties.

#### Access and parking

The proposed development would be accessed via the existing vehicular access from the public road, which would be altered slightly to accommodate the business unit to the southern boundary of the site. Each dwellinghouse would have a front garden that would provide parking for two vehicles. The dwellinghouses would also benefit from private rear gardens. The business unit would provide parking for one vehicle within its curtilage. Three visitor parking spaces would be provided within the site.

Concerns have been raised regarding the access arrangements onto the public road and the impact this would have on road safety. Roads Planning Service was consulted as part of the application process. They do not raise any concern regarding the proposed access to the site or the parking arrangements within it.

Conditions will be attached to ensure that further details are provided for the alterations of the junction with the public road and the construction of the access road, as well as parking.

#### Services

The proposed development would be connected to the public water supply and public drainage network which is appropriate as the application site lies within the settlement of Gordon.

Concerns have been raised regarding foul drainage capacity to support the proposed development at the local waste water treatment works. Scottish Water is the statutory corporation that provides waste infrastructure for Scotland. Any permission granted would not in itself guarantee that the development could be connected to the public drainage network as this would be subject to a separate application to Scottish Water to provide the foul drainage infrastructure required for the proposed development.

A letter from Scottish Water has been submitted to support the application. It states that there is sufficient capacity at Gordon Waste Water Treatment Works to service the proposed development. It is understood that Gordon Waste Water Treatment Works has recently been upgraded with an increased capacity. It is expected that the proposed development could be adequately serviced by appropriate foul drainage infrastructure. A condition will be attached to ensure that the proposed development is connected to the public drainage network prior to the occupancy of any units.

A Surface Water Drainage Strategy report has been submitted to support the application. Surface water would be managed within the application site via type C permeable paved area and a soakaway located beneath the access road, with a minimum distance of 5 metres from any existing or proposed building footprints. This approach accords with the general aims of Policy IS9.

#### Contaminated land

The Council's Contaminated Land Officer was consulted as part of the application process. They advise that the application site previously operated as an industrial yard. This land use is potentially contaminative and it is the responsibility of the developer to demonstrate that the land is suitable for the use they propose.

Petroleum licensing records indicate petroleum storage occurred within the application site.

A limited factual site investigation report has been submitted to support the planning application (prepared by Green Cat Renewables Ltd, dated 24 November 2021). Trial pit logs report the presence of strong kerosene and diesel odours within the two trial pits advanced.

The Contaminated Land Officer recommends that a condition should be attached to ensure that the development does not commence until a full site investigation and risk assessment has been carried out. Any requirement arising from this assessment for a remediation strategy and verification plan should be included, as deemed necessary.

Concerns have been raised regarding the presence of asbestos within the existing building and the implications for its removal from the application site. It is the applicant's responsibility to remove and dispose of any asbestos found within the existing building against prevailing legislation and guidance.

### Trees

A mature tree belt lies to the east boundary of the application site. A report has been submitted to support the application that includes a ground level assessment of potential tree constraints. The report concludes that it is unlikely that the proposed development would adversely impact upon the health or vitality of existing trees provided they are properly protected during the construction phase of the development.

A condition will be attached to ensure that the precise details for tree protection are provided prior to any works commencing on site. This information should include a tree protection plan which accurately plots the root protection areas and the position of any physical barriers to protect the trees.

### Ecology

The existing building may offer opportunities for nesting birds and roosting bats. There may be potential for the proposed development, through the demolition of the existing building to impact on bat or bird species, if they are present on site. In light of this, the applicant's agent submitted a Preliminary Roost Assessment to support the application. The Council's Ecology Officer has reviewed the report that has been submitted.

The Preliminary Bat Roost Assessment (prepared by Practecology, dated 18 April 2021) found no current or historic signs of bats using the application site. The buildings suitability to support bats is negligible.

Some birds, mainly wood pigeon and starlings are using the buildings for nesting. Therefore, compensatory bird boxes will be required as part of the development. The report does not specify the number of nests recorded in the building; considering the conservation status of wood pigeons (green) and starlings (red) the nests should be compensated at 2:1.

Conditions will be attached to ensure that a species protection plan for breeding birds is submitted if any works commence during the months of March to August inclusive, and to ensure that a scheme is submitted for compensatory nest boxes.

### Prime quality agricultural land

The application site is identified as being an area of prime quality agricultural land. The application site relates to a brownfield site which is vacant. Therefore, the proposed development would not result in the loss of prime quality agricultural land.

### Developer contributions

Policy IS2 aims to ensure that the cost of new or additional infrastructure required for new development is met by the developer. Developer contributions are sought towards education and lifelong learning, specifically Earlston High School, and affordable housing. The applicant has agreed to enter into a Section 75 Legal Agreement to settle the developer contributions sought by the Council.

### Waste

There would be sufficient storage within the application site to store the appropriate refuse bins.

### Archaeology

The Council's Archaeology Officer was consulted as part of the application process. They do not raise any concerns regarding the proposed development. They advise that an informative is recommended in case of any remains of the later 19th century buildings being found. It is unclear how much may remain of any of these buildings, but these would be expected to be only local in their significance. The same significance would also be applied to any features, such as rubbish or cess pits, associated with such buildings, and these too would also not require any archaeological conditions.

## Conclusion

In consideration of the above, the proposed development is considered to comply with the relevant policies contained within the Scottish Borders Local Development Plan 2016. It is recommended that the application be granted.

## REASON FOR DECISION :

Subject to a legal agreement and compliance with the schedule of conditions, the development will accord with the relevant provisions of the Local Development Plan 2016 and there are no material considerations that would justify a departure from these provisions.

### **Recommendation:** Approved - conditions, inform & LA

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.  
Reason: To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997, as amended.
  
- 2 Unless otherwise agreed in writing and in advance by the Planning Authority, prior to any development commencing on site, a scheme will be submitted by the Developer (at their expense) to identify and assess potential contamination on site. No construction work shall commence until the scheme has been submitted to, and approved, by the Council, and is thereafter implemented in accordance with the scheme so approved.  
The scheme shall be undertaken by a competent person or persons in accordance with the advice of relevant authoritative guidance including PAN 33 (2000) and BS10175:2011 or, in the event of these being superseded or supplemented, the most up-to-date version(s) of any subsequent revision(s) of, and/or supplement(s) to, these documents. This scheme should contain details of proposals to investigate and remediate potential contamination and must include:-
  - a) A desk study and development of a conceptual site model including (where necessary) a detailed site investigation strategy. The desk study and the scope and method of recommended further investigations shall be agreed with the Council prior to addressing parts b, c, d, and, e of this condition.
  - and thereafter
  - b) Where required by the desk study, undertaking a detailed investigation of the nature and extent of contamination on site, and assessment of risk such contamination presents.
  - c) Remedial Strategy (if required) to treat/remove contamination to ensure that the site is fit for its proposed use (this shall include a method statement, programme of works, and proposed validation plan).
  - d) Submission of a Validation Report (should remedial action be required) by the developer which will validate and verify the completion of works to a satisfaction of the Council.
  - e) Submission, if necessary, of monitoring statements at periods to be agreed with the Council for such time period as is considered appropriate by the Council.Written confirmation from the Council, that the scheme has been implemented completed and (if appropriate), monitoring measures are satisfactorily in place, shall be required by the Developer before any development hereby approved commences. Where remedial measures are required as part of the development construction detail, commencement must be agreed in writing with the Council.  
Reason: To ensure that the potential risks to human health, the water environment, property, and, ecological systems arising from any identified land contamination have been adequately addressed.
  
- 3 No works in connection with the development hereby approved shall commence until detailed engineering drawings for the alterations of the junction with the public road have been submitted to and agreed in writing by the Planning Authority. Thereafter, the junction with the public road shall be altered and completed in strict accordance with the approved drawings prior to the occupation of the first dwellinghouse or business unit, whichever is first, unless otherwise agreed in writing by the Planning Authority.

Reason: To ensure the junction is constructed to the correct standard to allow for vehicular and pedestrian movements in the interests of road safety.

- 4 No works in connection with the development hereby approved shall commence until detailed engineering drawings for the construction of the internal access road have been submitted to and agreed in writing by the Planning Authority. Thereafter, the access road shall be formed and completed in strict accordance with the approved drawings prior to the occupation of the first dwellinghouse or business unit, whichever is first, unless otherwise agreed in writing by the Planning Authority.  
Reason: To ensure the access road is formed to a suitable standard to serve the development.
- 5 Two parking spaces, not including any garages, shall be provided within the curtilage of each plot prior to the dwellinghouse being occupied. Thereafter the parking spaces must be retained in perpetuity.  
Reason: To ensure parking and turning are made available within the site.
- 6 No works in connection with the development hereby approved shall be undertaken during the breeding bird season (March to August inclusive), unless in strict compliance with a Species Protection Plan for breeding birds, including provision for pre-development supplementary survey, that shall be submitted to and agreed in writing by the Planning Authority. Thereafter, the development shall be carried out in complete accordance with the approved Species Protection Plan.  
Reason: To protect the ecological interest of the site in accordance with Local Development Plan policies EP2 and EP3.
- 7 No works in connection with the development here by approved shall commence until a scheme for compensatory nest boxes for birds has been submitted to and agreed in writing by the Planning Authority. Thereafter, the development shall be carried out in complete accordance with the approved details.  
Reason: To ensure the development accords with the requirements of Local Development policy EP3.
- 8 No works in connection with the development hereby approved shall commence until a details have been submitted to and agreed in writing by the Planning Authority for the protection of trees, within and adjacent to the application site. The approved protection measures shall be implemented prior to any works commencing on site and they shall be removed only when the development has been completed.  
Reason: In the interests of preserving the health and vitality of existing trees on the development site, the loss of which would have an adverse effect on the visual amenity of the area.
- 9 Waste water from the proposed development shall be disposed of via the public sewer as indicated in the submitted application and shall not be disposed of via private means, unless otherwise agreed in writing by the Planning Authority. The development shall be connected to the public sewer prior to the occupation of the first dwellinghouse or business unit, whichever is first.  
Reason: To ensure the long term sustainability of the development and the safety and welfare of the occupants and visitors to the site.
- 10 The proposed development shall be connected to the public water supply as indicated in the submitted application and shall not be connected to a private water supply, unless otherwise agreed in writing by the Planning Authority. The development shall be connected to the public water supply prior to the occupation of the first dwellinghouse or business unit, whichever is first.  
Reason: To ensure the long term sustainability of the development and the safety and welfare of the occupants and visitors to the site.
- 11 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended) or the Town and Country Planning (Use Classes) (Scotland) Order 1997 or any order amending, revoking or re-enacting these Orders, the business unit hereby approved (identified as plot 5 of the approved drawing PL\_03) shall be used only for a purpose within Use Class 4 and shall not be used for any other purpose without the express grant of planning permission from the Planning Authority.



Reason: To enable the planning authority to consider the implications of any subsequent change of use on the amenities of the area.

### Informatives

It should be noted that:

- 1 If any finds of archaeological interest are identified during the groundworks to progress this application, these should be recovered, reported and, if necessary, recorded with the Treasure Trove Unit in line with the law of the land in Scotland. If finds are made, then contacts with the Archaeology Officer can be made in case to advise whether Treasure Trove Unit recording will be required. Pictures can be sent with any email to [archaeology@scotborders.gov.uk](mailto:archaeology@scotborders.gov.uk), though a general rule of post-1850 finds are not considered to be of special interest.
- 2 In the event that bats are discovered following the commencement of works, works should stop immediately and the developer must contact NatureScot for further guidance. Works can only recommence by following any guidance given by NatureScot. The developer and all contractors to be made aware of accepted standard procedures of working with bats at [www.bats.org.uk](http://www.bats.org.uk).
- 3 It should be borne in mind that only contractors first approved by the Council may work within the public road boundary.

**“Photographs taken in connection with the determination of the application and any other associated documentation form part of the Report of Handling”.**